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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/774,396	02/10/2004	Renny H. Barnes	71071-0017	9802
22902	7590	05/13/2005	EXAMINER	
CLARK & BRODY 1090 VERMONT AVENUE, NW SUITE 250 WASHINGTON, DC 20005			KING, ANITA M	
			ART UNIT	PAPER NUMBER
			3632	

DATE MAILED: 05/13/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/774,396

Applicant(s)

BARNES, RENNY H.

Examiner

Anita M. King

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-10,12 and 13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-10 and 13 is/are rejected.
- 7) ☒ Claim(s) 12 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

This is the second office action for application number 10/774,396, Wall Article Hanger for D-Ring and Method of Use, filed on February 10, 2004.

Drawings

The drawings were received on February 18, 2005. These drawings are approved.

Claim Rejections - 35 USC § 112

Claims 1 and 3-6 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the movable ring" in line 7. There is insufficient antecedent basis for this limitation in the claim.

Claim 1 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a wall article," in line 13 in the claim is intended to refer to the original recitation of the term "a wall article" in line 1 of the claim. Applicant is suggested to change the latter recitation to either --the wall article-- or --said wall article--.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

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Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,267,718 to Sheehan. Sheehan discloses a wall article hanger (10) comprising: an elongated body having a first end portion (see attachment, Fig. 3), a center portion (see attachment, Fig. 4) having one arm (24) extending from the center portion and adapted to be attached to a movable ring, and a second end portion (see attachment, Fig. 3) having at least one prong (26) protruding at an angle from a longitudinal axis of the elongated body and a plate (20) extending away from the at least one prong and to the arm, the plate terminating in a face adapted to contact a wall article when the at least one prong is being pushed into a wall surface (47); and wherein the at least one prong further comprises a pair of prongs.

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 4,333,625 to Haug. Haug discloses a wall article hanger (22) comprising: an elongated body having a first end portion, a center portion having one or more arms (23) extending from the center portion and adapted to be attached to a movable ring, and a second end portion having at least one prong (13) protruding at an angle from a longitudinal axis of the elongated body and a plate (15) extending away from the at least one prong, the plate terminating in a face; a pair of arm, each arm extending from a side of the elongated body; and wherein at least one arm has a curved shape.

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Haug discloses the claimed invention except for the limitation of the plate extending to or beyond the one or more arms. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the length of the plate in Haug to have been long enough to extend to the one or more arms for the purpose of providing an aesthetically different appearance to the hanger.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan in view of U.S. Patent 5,069,412 to Jacob. Sheehan further discloses a pair of prongs at the second end portion. Sheehan discloses the claimed invention except for the limitation of the hanger having a pair of arms. Jacob teaches a hanger having an elongated body and wherein a pair of arms (38) extends from the body. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the hanger in Sheehan to have included a pair of arms as taught by Jacob for the purpose of providing more stability to the supported object.

Claims 7-10 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sheehan in view of U.S. Patent 1,914,951 to Kiessling. Sheehan discloses the claimed invention except for the limitation of a d-ring assembly. Kiessling discloses a d-ring assembly (11) comprising: a plate body (12), and a movable ring. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the hanger in Sheehan to have included the d-ring assembly as taught by Kiessling for the purpose of providing a more stable means for supporting an article on the hanger.

Sheehan combined with Kiessling inherently teach the method of hanging a wall article having a d-ring assembly attached thereto comprising the steps of: first attaching a body to the ring of the d-ring assembly; maintaining the ring of the d-ring in a generally vertical position after the attaching step; pressing the wall article against a wall surface; causing a rear surface of the wall article to press against an edge of the hanger; and manually holding the ring in the generally vertical position.

Allowable Subject Matter

Claim 12 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Response to Arguments

Applicant's arguments filed February 18, 2005 have been fully considered but they are not persuasive.

In response to applicant's argument that Haug is designed to receive a hammer for installation, a recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the

prior art. See *In re Casey*, 370 F.2d 576, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 312 F.2d 937, 939, 136 USPQ 458, 459 (CCPA 1963).

In response to applicant's arguments that Haug does not teach the plate aspect of the hanger, the plate is the flat portion that is adjacent reference character 15 in Haug, a plate is defined as a flat, smooth relatively thin, rigid body of uniform thickness and Haug discloses this feature. However, Haug does not teach that the plate extends to or beyond the arms, this is an aesthetic difference, the plate in Haug can be constructed to extend to or beyond the arms since it is clearly shown in Fig. 6 that there is ample clearance between the hanger and wall article to accommodate the an extended length of the plate, wherein the plate is capable of contacting the wall article/picture frame depending on the thickness of the picture frame and also, the picture frame/wall article is not an element of the claimed invention.

Applicant's arguments with respect to claims 8-10 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent 6,830,228 to Ernst

Ernst discloses a hanger for mounting an object to a wall.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).


A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anita M. King whose telephone number is (571) 272-6817. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Leslie A. Braun can be reached on (571) 272-6815. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Anita M. King
Primary Examiner
Art Unit 3632

May 10, 2005

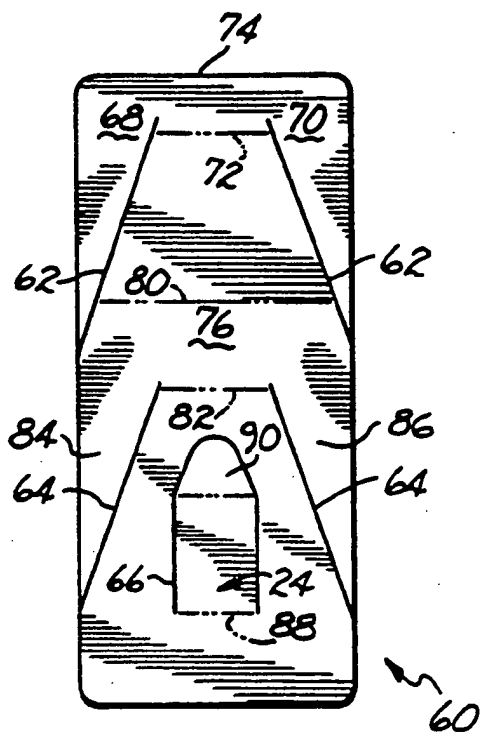


FIG. 2

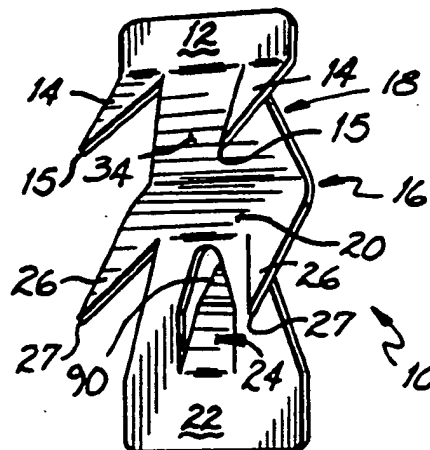


FIG. 1

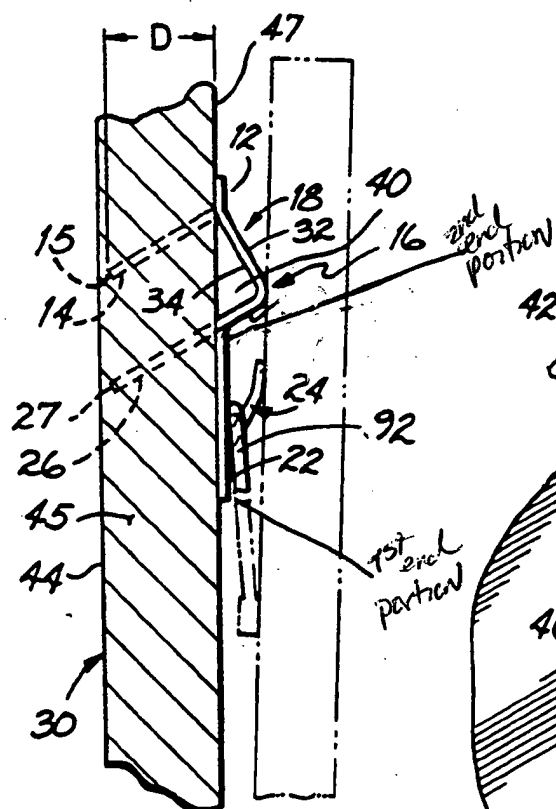


FIG. 3

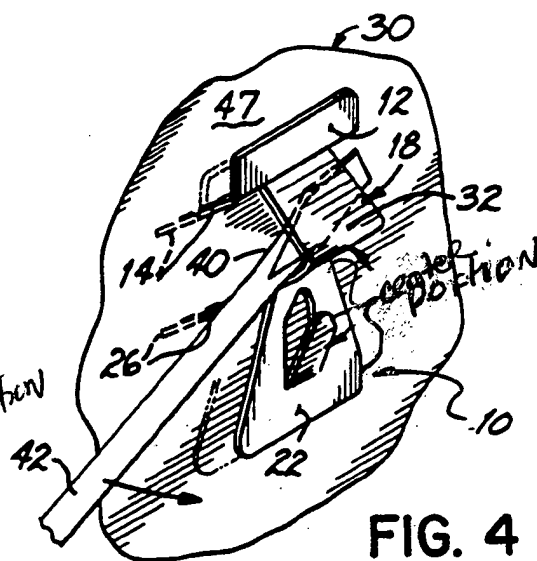


FIG. 4

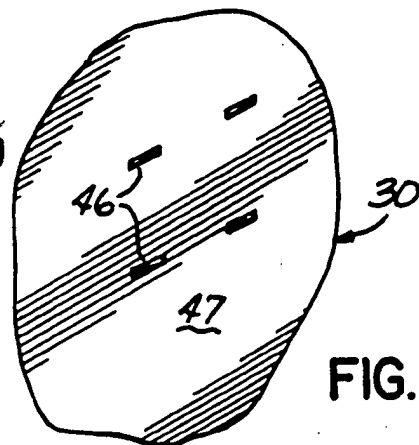


FIG. 5